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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/662,398	09/14/2000	William F. Harris	22146.203812	1311
826	7590	07/23/2004	EXAMINER	
ALSTON & BIRD LLP BANK OF AMERICA PLAZA 101 SOUTH TRYON STREET, SUITE 4000 CHARLOTTE, NC 28280-4000			GART, MATTHEW S	
			ART UNIT	PAPER NUMBER
			3625	

DATE MAILED: 07/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/662,398

Applicant(s)

HARRIS, WILLIAM F.

Examiner

Matthew s Gart

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 58-76 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 58-76 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 9/14/2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 1-57 are canceled. Claims 58 and 70 have been amended via the Attorney's response filed 5/3/2004.

Drawings

This application has been filed with informal drawings, which are acceptable for examination purposes only. Figure 1 through Figure 9 contains improper crowded text, which may affect clarity when reproduced.

Applicant is required to submit a formal correction of the noted defect. Applicant is required to submit drawing corrections promptly. Drawing objections may no longer be held in abeyance.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 58-76 are rejected under 35 U.S.C. 102(e) as being anticipated by Rothman U.S. Patent Application Publication 2002/0072984.

The Examiner notes, the claims below contain functional language, whereby the functional language contains insufficient structural specificities to support the functions recited, accordingly this language is given little patentable weight. While features of a system may be recited either structurally or functionally, claims directed to a system must be distinguished from the prior art in terms of structure rather than function. In re Schreiber, 128 F.3d 1473, 1477-78, 44 USPQ2d 1429, 1431-32 (Fed. Cir. 1997). In the rejection of the below claims the *italic* portion of the claims were given little patentable weight by the examiner.

Referring to claim 58. Rothman discloses a server system for generating an order for a product, comprising:

- A receiver component (Figure 12, "Shop for a Diamond") *that receives, on behalf of a manufacturer, requests to order a product from a customer and for receiving*

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financial authorization from a distributor, a request including a product code that identifies the product and a customer identification that identifies a customer, and a financial authorization comprising an acknowledgment from the distributor verifying a customer account even though the request is received by the receiver component in a manner independent of the distributor,

- *A data storage medium storing information (Figure 15) for a plurality of products, including a customer price associated with each of the plurality of products;*
- *An order placement component (Figure 17) that retrieves from the data storage medium information for the identified product and that uses the retrieved information to place an order from the manufacturer of the identified product; and*
- *An order fulfillment component (Paragraph 0075) that completes a purchase of the product in accordance with the order placed by the order placement component including arrangement for shipping by the manufacturer and billing of the distributor.*

Referring to claim 59. Rothman further discloses a server system wherein the customer identification includes an indication of the distributor so as to identify the predetermined pricing function (paragraph 0045).

Referring to claim 60. Rothman further discloses a server system wherein the customer identification includes a customer account number associated with the distributor (Figure 3).

Referring to claim 61. Rothman further discloses a server system wherein the receiver component (Figure 12) *is further for receiving an account number*

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acknowledgment from the distributor associated with the customer account number so as to identify the predetermined pricing function.

Referring to claim 62. Rothman further discloses a server system wherein the data storage medium includes pricing information associated with a plurality of distributors, and wherein the predetermined pricing function includes the distributor pricing information of the identified distributor in the customer price (Paragraph 0045).

Referring to claim 63. Rothman further discloses a commission component (Paragraph 0045) *that determines a commission and assigns the commission to a manufacturer's representative, where the commission is based on the order, and where the manufacturer's representative is associated with the customer identification.*

Referring to claim 64. Rothman further discloses a server system comprising a commission component (Paragraph 0045) *that determines a commission and assigns the commission to a manufacturer's representative, where the commission is based on the order, and where the manufacturer's representative is associated with the product.*

Referring to claim 65. Rothman further discloses a server system comprising a commission component (Paragraph 0045) *that determines a commission and assigns the commission to a manufacturer's representative, where the commission is based on the order, and where the manufacturer's representative is associated with the customer identification and the product.*

Referring to claim 66. Rothman further discloses a server system wherein the data storage medium further comprises stored information associating a manufacturer's representative with a plurality of predetermined variables; and further comprising a

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commission component (Paragraph 0045) *that determines a commission and assigns the commission to a manufacturer's representative based on at least one of the plurality of predetermined variable, where the commission is based on the customer price.*

Referring to claim 67. Rothman further discloses a server system wherein the receiver component is in communication via a public access communications network with a site displaying information for the product, and wherein the order is received via the public access network (Figure 1).

Referring to claim 68. Rothman further discloses a server system wherein the receiver component is in communication via a public access communications network with a site displaying information for the product, and wherein the order is received via the public access network (Figure 1).

Referring to claim 69. Rothman further discloses a server system wherein the receiver component is in communication via a public access communications network with a manufacturer-specific site displaying information for the product, where the manufacturer-specific site primarily displays only products of a single manufacturer, and wherein the order is received via the public access network.

Referring to claim 70. Rothman discloses a server system for generating an order for a product, comprising:

- A receiver component (Figure 12, "Shop for a Diamond") *that receives, on behalf of a manufacturer, requests to order a product from a customer, a request including a product code that identifies the product and a customer identification that identifies a customer,*

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- A data storage medium storing information (Figure 15) *for a plurality of products and storing information for a plurality of agents associated with the products, where the stored agent information includes at least one predetermined variable associated with each of the plurality of agents; and*
- A commission component (Paragraph 0045) *that determines a commission and assigns the commission to one of the plurality of agents based on at least one of the plurality of predetermined variables even though the request is received by the receiver component in a manner independent of the agents and even though the request is fulfilled in a manner independent of the agents.*

Referring to claim 71. Rothman further discloses a server system wherein the predetermined variable includes at least one of a territory, a distributor, a manufacturer, a commission percentage and the customer identification (Paragraph 0045).

Referring to claim 72. Rothman further discloses a server system wherein the data storage medium further comprises a commission percentage associated with each of the plurality of products, wherein the commission is based on the commission percentage (Paragraph 0045).

Referring to claim 73. Rothman further discloses a server system wherein the receiver component (Figure 12) *further receives a financial authorization that comprises an acknowledgment of the validity of the customer identification from a distributor of the product.*

Referring to claim 74. Rothman further discloses a server system comprising an order placement component (Figure 12) *that retrieves from the data storage medium*

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information for the identified product and that uses the retrieved information to place an order for the identified customer for the identified product.

Referring to claim 75. Rothman further discloses a server system wherein the receiver component is in communication via a public access communications network with a site displaying information for the product, and wherein the order is received via the public access network (Figure 1).

Referring to claim 76. Rothman further discloses a server system wherein the receiver component is in communication via a public access communications network with a manufacturer-specific site displaying information for the product, where the manufacturer-specific site primarily displays only products of a single manufacturer, and wherein the order is received via the public access network.

Response to Arguments

Applicant's arguments with respect to claim 58-76 have been considered but are moot in view of the new grounds of rejection.

Conclusion

Any inquiry concerning this communication should be directed to Matthew Gart whose telephone number is 703-305-5355. This examiner can normally be reached Monday-Friday, 8:30AM-5:30PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Wynn Coggins can be reached on 703-308-1344. The fax phone

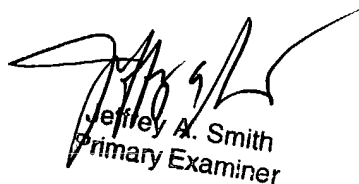
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numbers for the organization where this application or proceeding is assigned are 703-746-7239 for regular communications and 703-746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

MSG

July 20, 2004



Jeffrey A. Smith
Primary Examiner